

CITY OF ROCKVILLE LAND LEASE AGREEMENT

THIS LAND LEASE AGREEMENT (“Agreement”), made this _____ day of _____, 200_, between the MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, a municipal corporation, located at 111 Maryland Avenue, Rockville, Maryland 20850, hereinafter designated as “LESSOR” and CRICKET COMMUNICATIONS, INC., doing business in Maryland as CRICKET WIRELESS, INC., a Delaware corporation, with its principal office located at 10307 Pacific Center Court, San Diego, California 92121, hereinafter designated “LESSEE”

1. LESSOR is the owner of real property located at 14500 Avery Road, Rockville, Maryland 20852 (hereinafter called “Property”), being further described in a deed filed among the Land Records for Montgomery County, Maryland in Liber 4280 at Folio 593, and being depicted in Exhibit “A” attached hereto.

LESSOR hereby leases to LESSEE a 10-foot by 15-foot parcel of land (hereinafter called the “Premises”) containing 150 square feet located within a telecommunications “compound” (hereinafter called “Compound”) on the Property as depicted on Exhibit “A” attached hereto, for the installation, operation, maintenance, repair and replacement of the communications equipment described on Exhibit “A” attached hereto and made a part hereof, together with a non-exclusive right-of-way for (i) ingress and egress over the Property to the Premises, said right-of-way being generally described in Exhibit “A” attached hereto, and (ii) the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along the Property to the Premises.

The LESSEE understands that the primary purpose of the Property is for the operation of a municipal golf course and such other operations of the LESSOR as may be deemed appropriate by LESSOR. The LESSEE agrees that LESSOR’s uses shall have priority, and the LESSEE shall make reasonable accommodations to permit LESSOR’s uses of the Property to operate efficiently and for its primary purpose.

LESSOR reserves the right to gate, lock and/or secure the access to the Property or any portion thereof in the discretion of the LESSOR. If LESSOR exercises its right to gate, lock and/or secure the Property in a manner which limits LESSEE’S access to the Premises, LESSOR shall provide LESSEE with keys and/or any other appropriate means of accessing the Property via the right of way to Premises as depicted in Exhibit “A” seven (7) days a week twenty-four (24) hours a day, subject to the terms of paragraph 4.

2. This Agreement shall be for an initial term of ten (10) years and shall be effective from June 1, 2009 until May 31, 2019. Rental payments will be due and payable at an annual rental rate of nineteen thousand two hundred (\$19,200.00) for the first year, with increases of

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five percent (5%) over the prior year's rent each additional year or part thereof, to be paid in equal monthly installments on the first day of the month, in advance, with a five (5) day grace period, to the City of Rockville, 111 Maryland Avenue, Rockville, Maryland 20850, or to such other person, firm or place as the LESSOR, may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date.

LESSEE shall have the option to extend this Agreement for two (2) additional five (5) year terms by giving LESSOR written notice of its intention to do so at least six (6) months prior to the end of the then current term.

The annual rental rate for year two (2) of the initial term, and each year thereafter, including throughout any extension terms exercised shall be at a rental rate of 5% over the rent paid the previous year.

3. If at the end of the original and two (2) extension terms this agreement has not been terminated by either party giving to the other written notice of an intention to terminate it at least six (6) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year and for annual terms thereafter until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of such term. Monthly rental for each successive one- (1) year term following the second five- (5) year extension term shall be one hundred five percent (105%) of the rent paid for the last month of the preceding term.

Provided LESSEE is not in default hereunder, and shall have paid all rents and sums due and payable to the LESSOR by LESSEE, LESSEE shall have the right to terminate this Agreement at any time with six (6) months prior written notice beginning after the initial term.

4. LESSEE shall use the Premises for the purpose of constructing, maintaining and operating equipment, as further described in paragraph 7. All improvements shall be at LESSEE'S expense. LESSEE will maintain the Premises in a reasonable condition. LESSEE's use of the Premises and the right-of-way for ingress and egress is subject to the "Agreement Establishing Access and Maintenance Rules for Telecommunication Monopole Facility Located at Redgate Golf Course" (hereinafter referred to as "Access and Maintenance Rules") attached hereto as Exhibit "B."

It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals that may be required by any federal, state or local authorities as well as satisfactory soil boring tests which will permit LESSEE to use the Premises as set forth above. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action that would adversely affect the status of the Premises with respect to the proposed use thereof by LESSEE. In the event a subdivision of LESSOR's Property is required, LESSEE agrees to proceed with due diligence and obtain the same at its option and at its own cost and expense. In

the event that any of such applications are finally rejected or any certificate, permit, license or approval issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority through no fault of the LESSEE or soil boring tests are found to be unsatisfactory or will be unable to use the Premises for its intended purposes, LESSEE shall have the right to terminate this Agreement. Notice of the LESSEE's exercise of its right to terminate shall be given to LESSOR in writing by certified mail, return receipt requested, and shall be effective ninety (90) days after the mailing of such notice by the LESSEE. All rentals paid to said termination date shall be retained by the LESSOR. Upon such termination, this Agreement shall become null and void and none of the parties shall have any further obligations including the payment of money, to each other, subject to the terms of Section 9 herein.

5. LESSOR hereby grants LESSEE and the local utility and telephone companies an easement and right-of-way to construct, install, maintain, operate, provide, repair, and remove overhead and/or underground communication and electric power lines and systems along, over and/or under that portion of the Property designated on Exhibit "A" hereof for telephone and electric service to the Premises, provided that the appearance and location of said lines and/or systems shall first be approved by LESSOR. LESSEE shall be responsible for arranging for any necessary utility services for its facilities. The LESSEE shall be responsible for coordinating with LESSOR (i) the installation of utility wires, poles, cables, conduits, and pipes across the Property to the Premises, (ii) the relocation of any utility wires, poles, cables, conduits, and pipes serving the equipment of other communications providers located within, and adjacent to, the Compound necessary to serve LESSEE's equipment, and (iii) the relocation or installation of any equipment or equipment enclosures in, or adjacent to, the Compound necessary to accommodate the installation of LESSEE's equipment.

6. This Agreement is for the premises as depicted in Exhibit "A" and is independent from any rental agreement or obligations that LESSEE may make with the operator of the communications tower adjacent to the Premises.

7. LESSEE at its sole cost and expense, shall construct and install the following improvements upon the Premises and the Compound:

(a) Construction of a 10- foot by 15-foot wireless ground compound in which to place LESSEE's equipment as described in Exhibit "A."

(b) Construction and installation of all appurtenant communication equipment as indicated on exhibit "A."

LESSEE shall provide "as built" plans to the LESSOR, in electronic format acceptable to the LESSOR, within 30 days after substantial completion of any structure and/or facilities on the Property and/or Premises.

LESSEE may not construct any structures, buildings, or appurtenances other than those shown on Exhibits “A” without the written approval of the LESSOR and all necessary zoning and building permits and approvals.

Installation of the above will be coordinated with, and subject to the review and approval of, the LESSOR.

Construction of the communications facility shall be in accordance with the plans, drawings and specifications prepared and provided by LESSEE for LESSOR’s prior review and LESSEE shall comply with all applicable rules and regulations of the FCC, FAA, and regulations of any governmental agency (town, county, state or federal) including, but not limited to the applicable requirements of the local planning and zoning and building and electrical codes. LESSEE has the responsibility of carrying out the terms of its FCC license with respect to any supporting structures, lighting requirements and notifications to FAA. LESSOR shall have thirty (30) days to review said construction plans and approve them, or in the alternative, to advise LESSEE of necessary changes.

If, after the commencement of this Agreement, LESSEE is unable to provide or continue to provide wireless service from the Property due to the action of the FCC or by reason of any law, physical calamity, governmental prohibition or other reasons beyond LESSEE’s control so that LESSEE will be unable to carry out the purposes of its installation on the subject Property, this Agreement may be canceled by LESSEE upon ninety (90) days written notice.

8. LESSEE shall indemnify and hold LESSOR harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligent use and/or occupancy of the Property or willful misconduct by the LESSEE, its servants or agents, excepting, however, such claims or damages as may be attributable in whole or in part to the negligence of the LESSOR, its agents, servants or contractors. In the event of LESSOR’s negligence or willful misconduct, LESSOR shall so indemnify and hold harmless LESSEE.

9. LESSEE shall obtain and maintain during the term of this Agreement, a policy of commercial general liability insurance naming the LESSOR and the City of Rockville as additional insured with bodily injury limits of \$500,000.00 for injury or death to one person, \$1,000,000.00 per occurrence, and property damage insurance with a limit of \$500,000.00.

In the event the tower is destroyed or otherwise becomes inoperable, LESSOR shall have no financial or other liability to LESSEE and LESSOR shall have no duty or obligation to restore or replace the tower.

10. The relationship created by this Lease is one of landlord-tenant and shall not be considered a joint venture, nor shall any employees or agents engaged by LESSEE be considered sub-agents or employees of LESSOR.

11. LESSEE shall be considered in default of this Agreement upon the occurrence of any of the following:

(a) Failure to perform under any term, covenant or condition of this Agreement and the continuance thereof for thirty (30) days after written notice from LESSOR specifying said failure.

(b) The abandonment of the Premises by the LESSEE. The fact that LESSEE may cease using its communications equipment at the Premises for a period of time shall not constitute a default nor operate as an abandonment of the Premises.

(c) Failure to comply with the terms and conditions of the Access and Maintenance Rules set forth in Exhibit “B” attached hereto.

12. If either party shall fail or neglect to keep and perform each and every one of the covenants, conditions and agreements contained herein, and such failure or neglect is not remedied within thirty (30) days (or such longer period as may reasonably be required to correct such failure or neglect with exercise or due diligence) after written notice from the other party specifying such failure or neglect, then either party may pursue any legal remedies available. If either party files an action to enforce any agreement contained in this Agreement, or for breach of any covenant or condition and such party prevails in such action the other party, shall pay such party reasonable attorney’s fees and court costs, all fees to be fixed by the court.

13. No default as herein above provided shall be deemed complete unless at the time LESSOR or LESSEE seeks to take any action based upon such alleged default, the same shall remain uncured.

14. In the event that the LESSEE shall be found in default and shall fail to cure the default after notice given as set forth above, then the LESSEE’s right to be on the Premises shall automatically be revoked and Lessor shall have the right to remove all of LESSEE’s property from the Premises at LESSEE’s sole expense.

15. LESSEE shall be solely responsible for all costs and expenses relating to the connection, disconnection, consumption and use of any utilities in connection with LESSEE’s construction, installation, operation and maintenance of the Premises, including, without limitation, any electric consumption by its equipment. LESSEE agrees to pay all costs for and procure the installation of an electric meter for service from the local utility company.

LESSOR acknowledges that LESSEE’s communications facility will be used directly and exclusively in rendering a common carrier service subject to the jurisdiction of the FCC and that LESSEE’s common carrier service, equipment cabinets, transmitter and antennae may not be disconnected, terminated or interrupted in any manner without the approval of the FCC prior to any disconnection, termination or interruption. LESSOR will not do any act or omit to do any

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act in violation of the terms of this Agreement that would cause, directly or indirectly, any such disconnection, termination or interruption nor the disconnection or termination of electrical service to LESSEE's equipment cabinets or equipment.

16. During the Lease Term, given documentation, LESSEE shall be responsible for the payment of all taxes imposed on the leasehold improvements that result from LESSEE's use of the Premises provided LESSEE will be entitled to appeal any assessment.

17. LESSEE shall not store any materials, equipment or vehicles on the premises that are not listed in Exhibit "A" of this Agreement. LESSOR shall have the right to remove any materials, equipment, or vehicles from the Premises at LESSEE's sole expense after seven (7) days written notice to LESSEE that the materials, equipment or vehicles on the Premises are in violation of this Agreement.

LESSOR represents that it has no knowledge of any hazardous substances on or under the Property now or in the past. LESSOR shall notify LESSEE as soon as reasonably possible after obtaining any such knowledge during the term of the Lease. Hazardous substance shall mean any substance regulated by any environmental law.

LESSOR shall indemnify and hold harmless LESSEE from any and all claims, damages, losses, liabilities, and expenses, including attorneys' fees, arising from the presence of any hazardous substances being or having been on or under the Property at any time prior to the date hereof of which LESSOR has or should have had knowledge on the effective date of this agreement. In addition, LESSOR shall indemnify and hold harmless LESSEE from the future presence of hazardous substances that are attributable solely to the LESSOR. During the Term or any renewals of this Agreement, the parties shall notify each other if either of them become aware of the presence of any hazardous substance on or under the Premises and/or Property in quantities and manner that subjects it to regulation. Hazardous substance shall mean any substance regulated by any environmental law.

18. LESSEE agrees to install and operate equipment of a type and frequency that will not cause radio frequency interference with other forms of radio frequency communications existing on LESSOR's Property as of the date of this Agreement. In the event LESSEE's equipment causes such interference, LESSEE agrees it will take all steps necessary to correct and eliminate the interference consistent with appropriate government rules and regulations upon receipt of written notification of the interference. If the interference is not corrected within thirty (30) days of receipt of notification (or such time as may reasonably be required with exercise of due diligence provided such repairs are begun within said 30 days), LESSEE will cease operation of the equipment causing such interference until such interference is cured.

LESSOR agrees not to construct a wireless facility in the vicinity that could cause interference to the wireless facility located at 14500 Avery Road.

19. This Agreement shall be governed by Maryland law. The parties, by execution of this Agreement, consent to the jurisdiction of the Maryland State courts with respect to any dispute arising out of this Agreement, and further consent to venue in Montgomery County, Maryland.

20. Notwithstanding anything to the contrary contained herein, LESSOR shall have the option to terminate this Agreement upon a determination by LESSOR of any of the following (i) that it is in the best interests of LESSOR to sell or otherwise dispose of the Property; (ii) that LESSOR improvements and/or facilities on the Property are no longer needed by LESSOR or removal thereof is otherwise in the best interest of LESSOR; (iii) that continued maintenance and/or operation of LESSEE's facilities and equipment on the Property is detrimental to the Property or LESSOR's improvements thereon or is otherwise contrary to the public, safety, health, or welfare; or (iv) that the Property or any portion thereof are needed for public use or other governmental purposes. After the required determination by LESSOR, written notice of LESSOR's exercise of its option to terminate shall be given to LESSEE at least twelve (12) months prior to the intended date of termination.

21. LESSEE, upon termination of this Agreement, shall within a reasonable period not to exceed ninety (90) days without express written consent from LESSOR, remove its equipment cabinets, fixtures and all personal property and restore the Premises to its original condition existing on the commencement date, including the replacement of any trees removed by LESSEE, reasonable wear and tear excepted. If such time for removal causes LESSEE's property to remain on the Property after termination of this Agreement, LESSEE shall pay rent to the last existing monthly rate until such time as the removal of the building, fixtures and all personal property is completed.

22. Should the LESSOR, at any time during the term of this Agreement, decide to sell all or any part of the Premises to a purchaser other than LESSEE, such sale shall be under and subject to this Agreement and LESSEE's rights hereunder, and any sale by the LESSOR of the portion of this Property underlying the right-of-way herein granted shall be under and subject to the right of the LESSEE in and to such right-of-way.

23. This Agreement may be sold, assigned, or transferred by LESSEE at any time without the consent of LESSOR to a subsidiary of LESSEE, or to a successor to the primary business offered by LESSEE, and LESSEE, with LESSOR's reasonable consent, shall have the right to sublease to others whose primary business is the provision of communication service. Any sublessee shall have all rights of access and use as provided herein.

24. LESSOR covenants that LESSEE, on paying the rent and performing the covenants shall peaceably and quietly have, hold and enjoy the leased Premises.

25. LESSOR covenants that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further

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covenants that there are no other liens, judgments, impediments of title, covenants, easements or restrictions which prevent the use of the Premises by the LESSEE as set forth above.

26. It is agreed and understood that this Agreement contains all agreements, promises and understandings between the LESSOR and LESSEE and that no oral agreements, promises or understandings shall be binding upon either the LESSOR or LESSEE in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing and signed by both parties.

27. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, addressed as follows (or any other address that the party to be notified may be designated to the sender by like notice):

LESSOR: City of Rockville
Mayor and Council
111 Maryland Avenue
Rockville, Maryland 20850

With a copy to:
RedGate Golf Course Superintendent
14500 Avery Road
Rockville, Maryland 20850

Telecommunications and IT Operations Manager
111 Maryland Avenue
Rockville, Maryland 20850

LESSEE: Cricket Wireless, Inc.
10307 Pacific Center Court
San Diego, CA 92121
Attn: Director of Real Estate

With a copy to:
Cricket Wireless, Inc.
10307 Pacific Center Court
San Diego, CA 92121
Attn: Legal Department - Real Estate

The LESSEE shall provide the names, telephone numbers, and pager numbers at which an agent of the LESSEE can be reached 24 hours a day seven days per week.

28. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of the parties hereto.

29. At LESSOR's option, this Agreement shall be subordinate to any mortgage by LESSOR which from time to time may encumber all or part of the Property or right-of-way; provided, however, every such mortgage shall recognize the validity of this Agreement in the event of a foreclosure of LESSOR's interest and also LESSEE's right to remain in occupancy of and have access to the Property as long as LESSEE is not in default of this Agreement. LESSEE shall execute whatever instruments may reasonably be required to evidence this subordination clause. In the event the Property is encumbered by a mortgage, the LESSOR immediately after this Agreement is executed, will obtain and furnish to LESSEE, a non-disturbance agreement for each such mortgage in recordable form.

30. LESSEE represents and warrants that no officer, employee or agent of LESSOR has been or will be paid any sum or offered any gift, gratuity, employment or other consideration by or from LESSEE, its affiliates or agents in connection with assistance in obtaining, arranging, negotiation or continuation of this Agreement.

31. LESSOR represents and warrants that no officer, employee or agent of LESSEE has been or will be paid any sum or offered any gift, gratuity, employment or other consideration by or from LESSOR, its affiliates or agents in connection with assistance in obtaining, arranging, negotiation or continuation of this Agreement.

32. Any failure to perform or delay in performance of any act required herein, shall be excused and the time for performance extended to the extent such failure results from events beyond the control of the party who was to perform such act.

33. Any consent, approval or similar act to be performed hereunder shall not be unreasonably or unduly delayed or conditioned.

34. This Agreement shall not be recorded among the Land Records for Montgomery County, Maryland without LESSOR's consent.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSEE:

CRICKET COMMUNICATIONS, INC., doing
business in Maryland as CRICKET WIRELESS,
INC., a Delaware corporation

WITNESS: _____

By: _____

Print Name: _____

Print Name: Anthony Muscato

Title: _____

Title: VP, Launch Strategy & Planning

LESSOR:

THE MAYOR AND COUNCIL OF ROCKVILLE,
MARYLAND

ATTEST: _____

By: _____

Print Name: Claire F. Funkhouser

Print Name: Scott Ullery

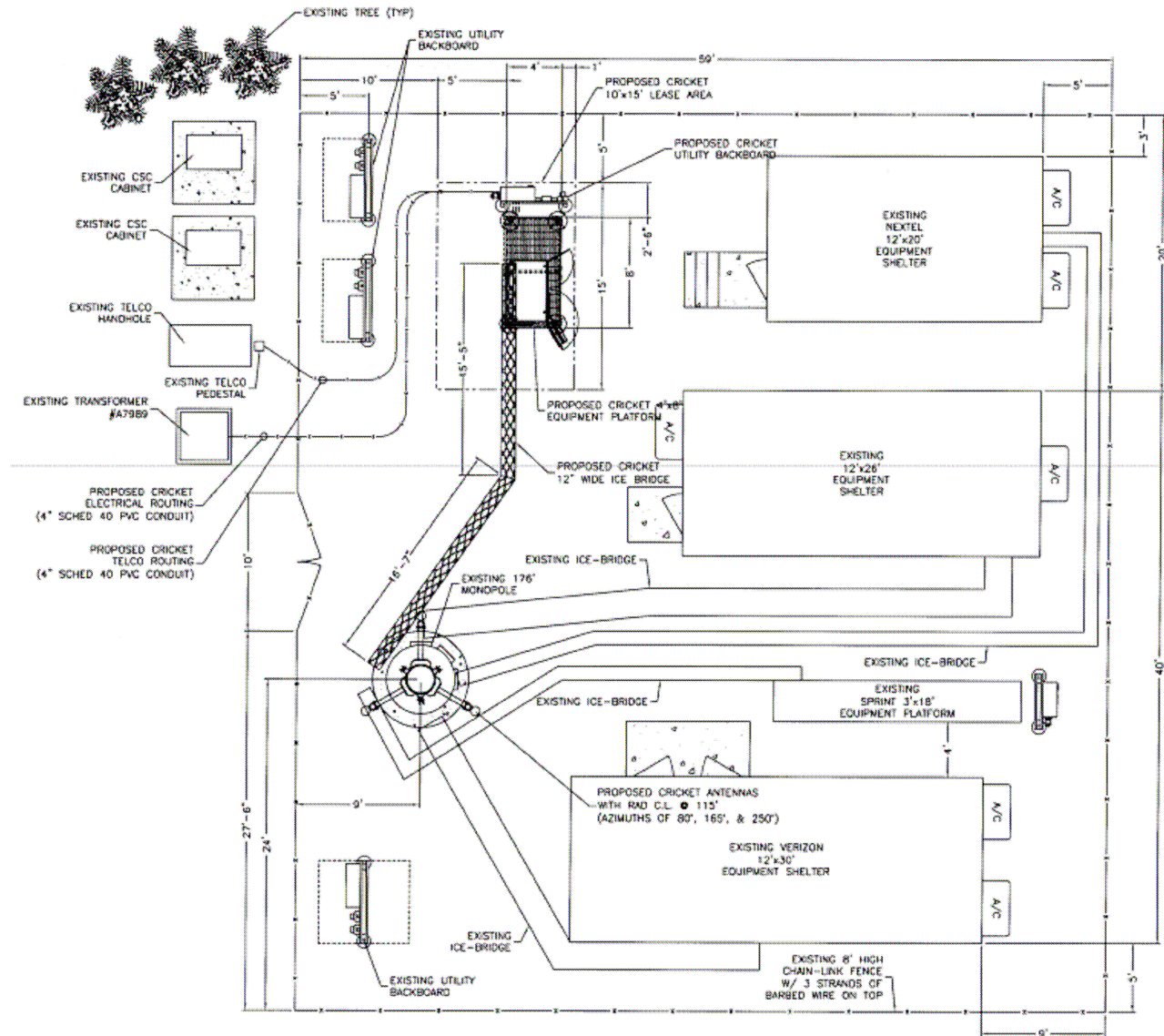
Title: Title: City Clerk

Title: City Manager

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EXHIBIT A

COMPOUND



Equipment List:

The following equipment will be installed within the Premises:

- One (1) Radio equipment cabinet of dimensions; 4'-7" high x 4'-4" wide x 2'-6" deep
- One (1) Steel equipment platform of dimensions; 8' long x 4' wide supported by four (4) non-penetrating feet
- One (1) Utility backboard of dimensions; 7' high x 4' wide

EXHIBIT B

ACCESS AND MAINTENANCE RULES

ADDENDUM TO AGREEMENT DATED OCTOBER 10, 2003 ESTABLISHING ACCESS AND MAINTENANCE RULES FOR TELECOMMUNICATION MONOPOLE FACILITY LOCATED AT REDGATE GOLF COURSE

Cricket Communications, Inc., doing business in Maryland as Cricket Wireless, Inc., a Delaware corporation (“Cricket”) hereby enters into the above referenced Agreement, attached hereto as Exhibit B-1, by and among the other Carriers for the benefit of the Mayor and Council of Rockville as if it were one of the Carriers originally listed therein. In so doing, Cricket agrees to abide by the terms and conditions in the Agreement regarding access and maintenance to the Facility.

CRICKET COMMUNICATIONS, INC., doing business in Maryland as Cricket Wireless, Inc., a Delaware corporation

By: _____

Printed Name: Anthony Muscato

Its: VP, Launch Strategy & Planning

Date: _____

Exhibit B-1

SEE ATTACHED AGREEMENT ENTITLED “AGREEMENT ESTABLISHING ACCESS
AND MAINTENANCE RULES FOR TELECOMMUNICATION MONOPOLE FACILITY
LOCATED AT REDGATE GOLF COURSE”